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9 UNITED STATES DISTRICT  
10 FOR THE EASTERN DISTRICT OF WASHINGTON

11 UNITED STATES OF AMERICA,

12 Plaintiff,

13 vs.

14 SEAN LEVON WATSON,

15 Defendant.

Case No.: 14-CR-00028-JLQ

United States' Notice Of Intent To  
Comply With Criminal Discovery  
Obligations And Reciprocal Request  
For Disclosure Of Evidence By The  
Defendant

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18 Plaintiff, United States of America, by and through MICHAEL C.  
19 ORMSBY, United States Attorney for the Eastern District of Washington, and  
20 James A. Goeke, Assistant United States Attorney for the Eastern District of  
21 Washington, submits the Following Notice of Intent to Comply with Criminal  
22 Discovery Obligations and Reciprocal Request for Disclosure Of Evidence by the  
23 Defendant.  
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Notice Of Intent To Comply With Criminal Discovery Obligations And Reciprocal  
Request For Disclosure Of Evidence By The Defendant – 1

1 I. INTRODUCTION

2 On February 20, 2014, the Defendant was indicted and charged with Felon  
3 in Possession of a Firearm and Ammunition, in violation of 18 U.S.C. §  
4 922(g)(1) (Count 1). On February 21, 2014, the Defendant was arraigned. On  
5 that same date, the Court issued an Order Regarding Discovery and Pretrial  
6 Motions. The United States has already provided 248 pages of discovery and  
7 will continue to do so, as discovery is received. The United States has also  
8 advised defense counsel, pursuant to Fed. Crim. P. Rule 16(a)(1)(E), that  
9 physical evidence in the case is available for inspection by contacting the AUSA  
10 Goeke. In addition, the United States intends to work with defense counsel on  
11 any discovery-related issues that might arise during the course of litigation.  
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17 II. INTENT TO COMPLY WITH CRIMINAL DISCOVERY  
18 OBLIGATIONS

19 The United States is mindful of its criminal discovery obligations under  
20 Federal Rule of Criminal Procedure 16, local court rules, the Jencks Act (18  
21 U.S.C. § 3500) and the independent obligations applied by Brady v.  
22 Maryland, 373 U.S. 83 (1963), and its progeny, and intends to fully comply  
23 with those obligations. The United States is also mindful of its obligation to  
24 protect victims and witnesses from retaliation or intimidation and to safeguard  
25 ongoing criminal investigations.  
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1 In accordance with the time frame set forth in the Court's Discovery Order  
2 (which requires a complete furnishing of all investigative material within 14 days  
3 of the Court's Order) and in accord with the court rules, statutes and case law  
4 governing discovery disclosures in federal criminal cases, the United States hereby  
5 gives notice that it will not consent to releasing discovery, documents, materials,  
6 or "all investigative material" in this case pursuant to the Court's "Open File"  
7 Discovery Order. Rather, the United States will diligently produce discovery in  
8 its possession in accordance with the discovery obligations set forth in Fed. R.  
9 Crim. P. 16, 18 U.S.C. § 3500 (Jenks Act), the rules of production established  
10 therein, the landmark decisions of Brady v. Maryland, 373 U.S. 83 (1963) and  
11 Kyles v. Whitley, 514 U.S. 419, 433 (1995), in disclosing exculpatory material  
12 within its possession which is material to the issue of guilt or punishment and  
13 Giglio v. United States, 405 U.S. 150, 154 (1972), as well as Court Rules, statutes,  
14 federal case law, and of course any further Order of this Court. The United States  
15 will not be providing discovery on an "open-file" basis, pursuant to the  
16 Department of Justice's policy on this issue.

17 Furthermore, while the Discovery Order states that the government shall  
18 provide, within 7 business days of the date of arraignment, all investigative  
19 material in its file and shall complete discovery within 14 days of the date the  
20 order was issued, the United States will not conclude the discovery process

1 within 14 days of the date the order was issued. As is customary in all criminal  
2 cases, the United States is hereby providing notice that it intends to investigate,  
3 interview witnesses, and collect any additional evidence throughout the trial  
4 process and/or sentencing. The United States will produce promptly any  
5 discoverable materials that it obtains throughout the trial process and/or  
6 sentencing.  
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9 If reports of examination and tests are received by the United States in  
10 this case, pursuant to Fed. Crim. P. R. 16(a)(1)(F), the United States will  
11 provide said reports of examinations and tests as soon as they are received and  
12 reviewed by the United States. The United States will also provide to defense  
13 a written summary of any expert witness testimony it will seek to present in its  
14 case-in-chief, pursuant to Rules 702, 703, and 705 of the Federal Rules of  
15 Evidence, describing the expert's opinion, the basis and reasons for those  
16 opinions, and the witness's qualifications.  
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21 If the case involves confidential informant(s), the United States hereby gives  
22 notice, based upon safety concerns of confidential informant(s), that it will not be  
23 producing information that would tend to reveal the identity of such an individual  
24 (including audio or video recordings), their location or contact information,  
25 within the time frame provided by the Court's Discovery Order. However, the  
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1 United States will be providing in discovery the criminal history and any benefits  
2 received by the confidential informant(s). The United States notes that the trial  
3 court must balance the need of the defense for information against the value of  
4 ensuring the safety of the informant(s). United States v. Rowland, 464  
5 F.3d 899, 909 (9th Cir. 2006). The defendant bears the burden of showing a need  
6 for disclosure. United States v. Decound, 456 F.3d 996, 1009 (9<sup>th</sup> Cir. 2006). If  
7 the case is not resolved by a plea agreement, the United States will provide the  
8 identity of informant(s) and information about them, as well as any audio and/or  
9 video recordings involving them, pursuant to Brady/Giglio and the Federal  
10 Rules of Evidence. The United States notes that in this case, with regard to  
11 informant(s), the United States has advised the Defendant of the following by  
12 way of a letter during the week of February 24, 2014:

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18 This case involves a Confidential Source ("CS"). At this  
19 time, the United States is not providing copies of any  
20 audio recordings and video recordings that include the  
21 CS' voice and/or image. Those recordings are, however,  
22 available for your immediate inspection by contacting  
23 Assistant United States Attorney James A. Goeke.  
24 Transcripts of the audio recordings are also provided in  
the discovery.

25 If this case involves minor victims and/or witnesses that need to be  
26 protected from retaliation or intimidation, the United States shall either  
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1 redact discovery or promptly request a protective order for disclosure of  
2 discovery related to such individuals, pursuant to 18 U.S.C. § 3509.  
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4 Federal Criminal Procedure Rule 16 does not require the disclosure of  
5 grand jury transcripts. The United States intends to provide transcripts of  
6 testifying witnesses approximately two weeks in advance on any trial in this  
7 matter.  
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10 **III. UNITED STATES REQUEST FOR DISCLOSURE OF EVIDENCE BY**  
11 **THE DEFENDANT**

12 The United States hereby requests Defendant to promptly disclose the  
13 information and evidence required by Rule 16(b) of the Federal Rules of  
14 Criminal Procedure.  
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16 The Defendant is charged with an offense(s), the times, dates and places of  
17 which are detailed in the Indictment and discovery materials provided by the  
18 United States. Pursuant to Fed. R. Crim.P.12.1, the United States hereby  
19 demands notice of alibi.  
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22 Lastly, pursuant to Fed. R. Crim.P.12.2(a) and (b), the United States  
23 hereby demands notice of any insanity defense or other mental disease, defect, or  
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1 other condition bearing on whether the Defendant has the mental state required  
2 for the offense(s) charged.  
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4 Dated: February 28, 2014.

5 MICHAEL C. ORMSBY  
6 United States Attorney  
7

8 s/ James A. Goeke  
9 James A. Goeke  
10 Assistant United States Attorney  
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12  
13 **CERTIFICATE OF SERVICE**

14 I hereby certify that on February 28, 2014, I electronically filed the  
15 foregoing with the Clerk of the Court using the CM/ECF system which will send  
16 notification of such filing to the following:  
17  
18

19 Jaime Hawk  
20 Federal Defenders  
21 10 North Post Street, Suite 700  
22 Spokane, WA 99201  
23

24 s/ James A. Goeke  
25 James A. Goeke  
26 Assistant United States Attorney  
27  
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